



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Implementation of Section 621(a)(1) of)	
the Cable Communications Policy Act of 1984)	MB Docket No. 05-311
as amended by the Cable Television Consumer)	
Protection and Competition Act of 1992)	

COMMENTS OF Cable Advisory Council of South Central CT, Inc.

These Comments are filed by **Cable Advisory Council of South Central CT, Inc.** in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. As an Organizational member of the Alliance, **Cable Advisory Council of South Central CT, Inc.** believes that local or state governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about cable franchising in CT and a significant community building resource Public, Educational, and Government Access ("PEG") that may be a victim of change based considerations from a competitive playing field perspective on the matters before you.

Cable Advisory Council

The Cable Advisory Council SCC (CACSCC) represents the interests of seven municipalities and approximately 63,000 COMCAST cable subscribers in the towns of Branford, North Branford, East Haven, North Haven, Wallingford, Guilford and Madison, Connecticut. In Connecticut the State is the cable franchising authority. The franchise process is managed by The State of CT., Dept. of Public Utilities (DPUC). The company's advisory council is the municipality's voice in the proceedings. Ours is one of ten COMCAST franchises in CT. There are 24 franchise areas in Connecticut.

CACSCC has been party to several franchise proceeding as well as and transfer of assets related to the mergers and acquisitions of cable companies/franchisees since 1982. By Statue municipalities can appoint 27 members however our numbers have rarely exceeded 15 representatives. Our current franchise agreement became effective on 10.01.2002 and expires on 09.31.2012.

State of Connecticut Franchising Process

Our States franchise regulations impose many specific requirements on cable TV companies including provisions for public access programming (CGS Sec. 16-331a and Conn. Agencies. Regs. Sec. 16-333). DPUC determines precisely how each company (currently limited to cable) will meet these requirements when it renews a company's franchise or approves a franchise transfer. The law provides for reviews of the company's performance during the franchise term and allows DPUC to enforce the franchise requirements, including those pertaining to public access. The law also assigns several responsibilities regarding public access programming to the advisory council during the franchise term. The law requires each company,

in consultation with its advisory council, to provide "facilities, equipment, and technical and managerial support" to enable the production of "meaningful" public access programming (CGS Sec. 16-331a). The law also allows a non-profit organization, with DPUC approval, to assume these responsibilities with the company continuing to pay for the costs of public access. There are seven such local non-profits in our franchise.

Competitive Cable Systems

Our community

- was served concurrently for a brief period in beginning in 1997 by a competitive cable provider referred to as **SNET PERSONAL VISION, INC** via a state-wide franchise agreement involving (SBC Communications Inc. (SBC), Southern New England Telecommunications Corporation (SNET), and SNET Personal Vision, Inc. (SPV) collectively.
- SBC Communications, Inc. and Verizon Communications Inc. have separately indicated that they intend to offer video programming to consumers. This is currently a DPUC Docket # 05-06-12 - DPUC Investigation of the Terms and Conditions Under Which Video Products May Be Offered by Connecticut's Incumbent Local Exchange Companies.

Franchising is Not Perfect, but...

The franchising process can extend over a period of years. It is a costly, adversarial process. However, with Connecticut State Statutes much of the franchise cost incurred by municipalities in other states is defrayed. As part of the CT franchise process, the cost of a required, independent audit is passed on to subscribers. However, given the complexity of services and infrastructure under review as well as the 'big company' versus 'citizen' nature of the negotiation it is a necessary component of the process. Clearly cable rates have not been stabilized by the process. However, two essential outcomes are manifest: 1) ongoing citizen advocacy for products and services and 2) Public, Educational or Government Access Channels.

Much of both the company's and citizen resources go into the adversarial aspects of the process rather than the community building opportunities. PEG is secured but often under utilized, under subsidized and sometimes unknown to a large percentage of the community at large. It is seen as an expense rather than an asset by the cable providers. Many opportunities for community building and education are missed based with the process in place today. But today's process is better than no opportunity at all for Public, Educational or Government Access Channels. So as you review the elimination of franchising, please be mindful that it is the only means seen to preserve a local community's public rights-of-way rights. And consider that eliminating franchising can become an opportunity to redirect franchise process resources into "Community Reinvestment" through PEG Access for public purposes:

1. Allowing the local community which owns the public rights-of-way to participate in determining the best use of the community's property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Our Current Franchise

Within our franchise, the cable operator provides a town-wide channel devoted each type of access: public access; educational access; and government access which we refer to as Community Access. Our franchise allows for capital support for PEG Access and other public interest services in the amount of \$6.43 per subscriber per year (2005-06) with an Annual

Review for inflation conducted by the DPUC. We gave up a regional Access channel in the last franchise negotiation to get resources for Satellite program reception and redistribution and to get an increase in per subscriber per month to address needs for ongoing capital expenditures, training and non-profit management.

Conclusions

Is NPRM only looking retrospectively at the competitive aspect of franchising? We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers in every community. We encourage review of the State Regulatory process in Connecticut as a model that can be built upon to serve competing interests equitably while recognizing that acting locally varies by community.

Statewide regulatory oversight of cable franchising has ensured that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. While maintaining overall standards the states involvement has not diminished the aspect of local cable franchising that ensures local community's specific needs are met and protected.

The **Cable Advisory Council of South Central CT, Inc** therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local or state government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent

to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

We believe the PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

Respectfully submitted,

**Cable Advisory Council
of South Central CT, Inc**



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